

RESOLUTION OF THE BOARD OF DIRECTORS OF THE ASSOCIATION OF OWNERS OF KUKUI PLAZA ADOPTING A SCHEDULE OF FINES FOR VIOLATIONS OF THE DECLARATION, BYLAWS, AND HOUSE RULES

WHEREAS, the Board of Directors of the Association of Owners of Kukui Plaza (the "Board") has the power to take action for violations of the Restated Declaration of Condominium Property Regime of the Association of Owners of Kukui Plaza, as amended and restated (the "Declaration"), the Restated Bylaws as the Association of Owners of Kukui Plaza, as amended and restated (the "Bylaws"), and the House Rules against all apartment owners, tenants of owners, employees of owners and tenants, and any other person who may use the Kukui Plaza condominium project in any manner; and

WHEREAS, the Board has authority to impose fines or maintain an action for damages or injunctive relief on behalf of the Association against apartment owners, their tenants, families, servants and guests, pursuant to Paragraph 14.0 of the Declaration; and

WHEREAS, the Board has authority to do all acts or things necessary for the administration of the affairs of the Association pursuant to Article III, Section 2 and Article V, Section 1 of the Bylaws; and

WHEREAS, Paragraph 14.0 of the Declaration, Article VII, Sections 7 and 8 of the Bylaws, and Hawaii Revised Statutes Section ("HRS") 514B-104(a)(11) give the Association the power to impose monetary fines upon apartment owners, their tenants, and anyone else using units at the project for violations of the Declaration, the Bylaws, and the House Rules of the Association pursuant to a resolution adopted by the Board of Directors; and

WHEREAS, the Board wishes to adopt a resolution imposing monetary fines pursuant to Paragraph 14.0 of the Declaration, Article VII, Sections 7 and 8 of the Bylaws, and HRS Section 514B-104(a)(11); and

NOW, THEREFORE, BE IT RESOLVED THAT the Board adopts the following rules for fines and appeals for any violation of the Association's Declaration, Bylaws, or House Rules (the "project documents") by apartment owners, their tenants, family members, guests, agents, employees, or anyone else using the project; and

RESOLVED FURTHER, the Board deems apartment owners to be responsible for payment of any fines imposed with respect to their apartments or as a result of the actions of the owners' tenants, family members, guests, agents, or employees.

I. CITATIONS

Each citation issued shall briefly describe the nature of the violation; date of the violation; apartment number; and name of parties involved, if known. The original citation shall be

sent to the apartment owner (who shall be responsible for payment of any applicable fine, as outlined below). If the owner of the apartment is not an occupant, then copies of citations also will be given or sent to the owner's tenant if the offender is the tenant, or the guest, family member, agent, or employee of the tenant (provided, this shall not be deemed a waiver of the owner's responsibility for payment of any applicable fine).

II. FINE SYSTEM

If the House Rules provide an immediate fine for the violation that occurred, then the Board, General Manager, or Security shall impose a fine in the amount provided in the House Rules. Otherwise, if the Board, General Manager, or Security determines that a violation may warrant a fine, the citation or a subsequent notice shall be issued to the apartment owner and violator (if the violator is not an owner) informing them of the amount of the proposed fine.

Except as otherwise provided in this resolution and in the House Rules, citations and fines shall be issued and imposed as follows:

- First offense: a written citation given or sent to the apartment owner and a \$50.00 fine assessed against the owner.
- Second offense: a written citation given or sent to the apartment owner and a \$100.00 fine assessed against the owner.
- Third offense: a written citation given or sent to the apartment owner and a \$200.00 fine assessed against the owner.
- Fourth and subsequent offenses: a written citation given or sent to the apartment owner and a \$500.00 fine assessed against the owner for each offense.

Any action which in the opinion of the Board of Directors or General Manager creates a hazard, hardship, danger or harm to residents of the project will result in a citation and an immediate \$1,000.00 fine assessed against the owner. The Board of Directors reserves the right to immediately enjoin, abate, or remedy by appropriate legal proceedings, any violation of the House Rules that may impair or in any way affect the value or safety of the project or the use, enjoyment, safety, or health of any apartment occupant. In addition, the Board may seek the eviction of the persons responsible if they are tenants.

Note: A violation which has not been corrected within ten (10) days of the date of a citation will be considered another violation and subject to another citation and a fine.

Second, third, fourth, and subsequent offenses need not be for a violation of the same provision before a fine is imposed.

The Board delegates primary enforcement to the General Manager. The Board delegates its authority to the Association's General Manager or security guards to issue citations.

A subsequent violation does not need to be for the same kind of violation. For example, if a person first receives a citation for improper parking and then a citation for noise, that person may be fined \$100.00 for the second offense. Violations stay on record for one year.

III. PAYMENT OF FINES AND LIABILITY

Apartment owners shall be liable for their own fines and for fines assessed against their tenants and their own and their tenants' guests, family members, agents, or employees. A fine must be paid by the apartment owner to the Association within thirty (30) days of the citation and assessment of the fine. If the owner fails to pay or appeal a fine within thirty (30) days after the fine is assessed, the fine shall be deemed a common expense chargeable against the owner's apartment. The Association may file a lien against the owner's apartment for the unpaid fines and may collect the unpaid fines under the procedures provided in Paragraph 13.4 of the Declaration, Article VI, Sections 2 and 3 of the Bylaws, and Section 514B-146 of the Hawaii Revised Statutes for collection of delinquent assessments. The owner may be assessed late fees and/or interest in accordance with the Declaration and the Bylaws.

IV. APPEAL OF FINES

Any citation or fine may be appealed as provided in this Section IV.

- Within thirty (30) days of the date of a citation or fine, an owner or other offenders may appeal to the Board by mailing or delivering written notice of appeal to the Board or the General Manager.
- If an appeal is made to the Board, the notice of appeal must contain a copy of the citation, a statement of the facts of the offense, the reason for appeal, the names and addresses of any witnesses, and copies of any proposed exhibits. The owner, tenant, or other offender may appear at a Board meeting to provide additional information or the Board may ask the person to appear.
- The Board may reduce, suspend, or cancel any citation or fine after consideration of the appeal. The Board will mail or deliver a written decision to the person making the appeal within sixty (60) days of the receipt of the notice of appeal.
- Pending an appeal to the Board, an owner need not pay a fine and no lien shall be imposed on an owner's apartment. However, unless the Board votes to reduce, suspend, or cancel a citation or fine, filing a notice of appeal shall not halt the accrual of any ongoing late fees or fines imposed for the offense which is the subject of the appeal.

- Failure of the owner or violator to appeal within thirty (30) days of receipt of the citation shall result in the automatic imposition of the sanction or fine, if any, in the amount proposed in the citation and shall constitute a waiver of the right to a hearing and a loss of the right to contest the decision of the Board.

V. LEGAL ACTION

NOTHING CONTAINED IN THIS RESOLUTION SHALL BE INTERPRETED TO PREVENT OR DELAY THE BOARD OF DIRECTORS OR GENERAL MANAGER FROM IMMEDIATELY ENJOINING, ABATING, REMOVING, OR REMEDYING – THROUGH AUTOMATIC FINES, LEGAL ACTION, OR ANY OTHER MEANS – ANY VIOLATION OR BREACH WHICH MAY IMPAIR OR IN ANY WAY AFFECT THE VALUE OR SAFETY OF THE PROJECT OR THE USE, ENJOYMENT, SAFETY OR HEALTH OF ANY APARTMENT OCCUPANT.

I, Fran Takemoto, Secretary of the Board of Directors of the Association of Owners of Kukui Plaza, do hereby certify that the foregoing is a true copy of the resolution duly adopted at a meeting of the Board of Directors, duly held on 17 January 2018 and duly entered in the book of minutes of the Association, and that this resolution is in full force and effect.



Secretary, ASSOCIATION OF OWNERS
OF KUKUI PLAZA